

IN THE HIGH COURT OF ORISSA AT CUTTACK
MACA No.166 of 2021

Manager, Legal Cell, M/s. Chola M.S.
General Insurance Company Ltd. ***Appellant***

Mr. A.A. Khan, Advocate

-versus-

Hiramati Devi and Others ***Respondents***

Mr. K.K. Das, Advocate for Respondents 1-4

CORAM:
SHRI JUSTICE B. P. ROUTRAY

ORDER
19.7.2022

Order No.

06. 1. The matter is taken up through hybrid mode.
2. Heard Mr. A.A. Khan, learned counsel for the insurer – Appellant and Mr. K.K. Das, learned counsel appearing for claimant – Respondents.
3. Mr. Khan submits that present appeal being against the ex-parte judgment of the learned 4th MACT, Cuttack, where the insurer was not given adequate opportunity to advance their case, the matter may be remanded back to the learned tribunal for fresh adjudication.
4. Mr. Das on the other hand opposes for remanding back the matter by submitting that the poor claimants are suffering since the year 2014 and the insurer did not contest the case despite sufficient opportunity granted to them.

5. Admittedly the impugned award is an ex-parte judgement against the insurer. Since substantial justice is to be preferred against technicalities, it is felt apposite to remand back the matter to the learned tribunal for fresh adjudication, where the insurer as well as the owner were both set ex-parte. When the liability has been fixed on the insurer to pay the compensation, they should be given a fair opportunity of hearing in the interest of justice.

6. In the circumstances, considering the suffering of the claimants, the insurer is directed to pay a sum of Rs.50,000/- to the claimants within a period of three weeks from today by depositing the same before the learned Tribunal. Subject to deposit of such amount of Rs.50,000/- which shall be disbursed in favour of the claimant on the date of appearance, this matter is remanded back to the learned tribunal for fresh adjudication in accordance with law by giving opportunity to the appellant – insurer to file their WS and adduce their evidence, if any.

7. The impugned award is accordingly set aside and the parties are directed to appear before the learned tribunal on 17th August, 2022.

8. The tribunal is further directed to complete the adjudication and dispose the claim application within a period of four months from the date of appearance of both parties, i.e. not later than 17th December, 2022.

9. The appeal is disposed of in terms of above directions.

10. The statutory deposit made by the appellant before this court along with accrued interest be refunded to the Appellant - insurer on proper application and on production of proof of deposit of Rs.50,000/- before the tribunal.

11. An urgent certified copy of this order be issued as per rules.

(B.P. Routray)
Judge

M.K.Panda

